

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Boy 1450 Alexandjia, Virginia 22313-1450

APPLICATION	NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/730,501 12/04/2		12/04/2000	James B. Pitkow	12260-02/JWE	1004	
758	7590	09/16/2005		EXAM	EXAMINER	
FENWI	CK & WES	ST LLP	RIMELL, S.	RIMELL, SAMUEL G		
SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041				ART UNIT	PAPER NUMBER	
				2165		
				DATE MAILED: 09/16/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)
09/730,501	PITKOW ET AL.
Examiner	Art Unit
Sam Rimell	2165

	Sam Rimell	2165	!						
	<u> </u>								
The MAILING DATE of this communication appears on the cover sheet with the correspondence address									
 THE REPLY FILED <u>06 September 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: 									
	a) The period for reply expires <u>5</u> months from the mailing date of the final rejection.								
b) Li The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.									
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).									
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL									
2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).									
AMENDMENTS									
3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below);									
(c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or									
(d) ☐ They present additional claims without canceling a NOTE: <u>See Continuation Sheet</u> . (See 37 CFR 1.1	· -	jected claims.							
		ampliant Amandment	(DTOL 224)						
6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling									
the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.									
The status of the claim(s) is (or will be) as follows:									
Claim(s) allowed: Claim(s) objected to: <u>10, 12, 13, 23, 24, 36</u> . Claim(s) rejected: <u>1-9,11,14-22,25-35 and 37-49</u> .									
Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE									
8. The affidavit or other evidence filed after a final action, b because applicant failed to provide a showing of good ar and was not earlier presented. See 37 CFR 1.116(e).	ut before or on the date of filing a N nd sufficient reasons why the affida	Notice of Appeal will <u>r</u> vit or other evidence i	oot be entered s necessary						
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).									
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER									
11. The request for reconsideration has been considered by	ut does NOT place the application i	n condition for allowa	nce because:						
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).									
13. Other:									
		Sam Rimell Primary Examiner							

Art Unit: 2165



Continuation Sheet (PTOL-303)

Application No.

Continuation of 3. NOTE: The proposed amendment raises new issues. Claims which are drafted into independent form must include all the same language which had been previously presented. Claim 1 includes new language in its amendment at line 6 and thus raises new issues.